

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

MATTHEW SONCINI, Individually	:	CIVIL ACTION
and d/b/a SONCINI'S PIZZA	:	
PUB, INC.	:	
	:	
v.	:	
	:	
CHALFONT BOROUGH, DAVID DRYE,	:	
et al.	:	No. 07-cv-00744-JF

MEMORANDUM AND ORDER

Fullam, Sr. J.

June 5, 2007

Defendants' motion to dismiss plaintiff's complaint points out several noteworthy defects in plaintiff's pleading, correctly noting that (1) the "Chalfont Borough Council" is not a suable entity; (2) the "Chalfont Borough Police Department" is not a suable entity; (3) the complaint does not allege any official policy or practice of the defendant Borough which would suffice for the imposition of municipal liability; and (4) the Pennsylvania Whistleblower statute, 43 Pa. C.S.A. § 1421 *et seq.* has no bearing on this case, since there is no allegation of an employer-employee relationship.

In addition to these defects, the following should also be mentioned. The complaint refers variously to the plaintiff as "Matthew Soncini, a citizen of the United States of America and resident of the Commonwealth of Pennsylvania" and "Soncini's Pizza Pub, Inc., a duly organized corporation" and "plaintiff, Matthew Soncini, individually and d/b/a Soncini's Pizza Pub,

Inc.” It seems probable that there are two plaintiffs, whose rights and entitlements are different, but the complaint does not tell us which plaintiff’s rights were violated in various ways, and what damages (if any) may have been sustained by each of the plaintiffs. In short, it is clear that the complaint in its present form does not allege valid claims against any of the defendants. It is not entirely clear, however, whether plaintiffs might be able to file an amended complaint which passes muster under Fed. R. Civ. P. 12(b)(6). For the present, the complaint will be dismissed in its entirety, without prejudice to the filing of an amended pleading.

An Order follows.

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ORDER

AND NOW, this 5th day of June 2007, IT IS ORDERED:

That plaintiff's complaint is DISMISSED, with leave to file an amended pleading within 30 days if the facts warrant. Unless such an amended complaint is filed and served, this action will be dismissed with prejudice.

BY THE COURT:

/s/ John P. Fullam
John P. Fullam, Sr. J.